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10/15/00  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,  
Plaintiff

v.

ROBERT CLARK, MARTIN L.  
DRAGOVICH, JOHN A.  
PALAKOVICH, ROBERT N.  
NOVOTNEY, MICHAEL J. KAZOR,  
and JOHN ANDRADE,  
Defendants

: NO. 1:00-CV-1090  
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: CHIEF JUDGE SYLVIA H. RAMBO  
: (MAGISTRATE JUDGE SMYSER)✓  
:  
:

: JURY TRIAL DEMANDED  
:  
:  
:

FILED  
HARRISBURG, PA  
OCT 04 2000  
MARY E. DANDEA, CLERK  
FOR  
DEPUTY CLERK

**DEFENDANT DR. CLARK'S MOTION TO REVOKE  
PLAINTIFF'S IN FORMA PAUPERIS STATUS AND TO DEFER  
FILING OF RESPONSIVE PLEADING**

AND NOW, comes Defendant, Robert Clark, by and through his attorneys, Lavery, Faherty, Young & Patterson, P.C., and files this Motion to Revoke Plaintiff's *In Forma Pauperis* Status and To Defer Filing of Responsive Pleading and in support thereof, avers as follows:

1. On June 5, 2000, John Richard Jae, a *pro se* prisoner at the State Correctional Institution-Camp Hill (hereinafter, "SCI-Camp Hill"), initiated this civil action by filing a Complaint against Dr. Robert Clark pursuant to 42 U.S.C. § 1983 arising out of the medical care which he received at that facility.

2. On August 3, 2000, the Plaintiff filed an Amended Complaint naming Martin L. Dragovich, John A. Palakovich, Robert N. Novotney, Michael J. Kazor and John Andrade as additional defendants.

3. By Order dated August 9, 2000, this Honorable Court directed the Clerk of Court to serve Plaintiff's Amended Complaint on the new Defendants in accordance with Fed.R.Civ.P. 4.

4. Plaintiff's Amended Complaint was also served on the original Defendant, Dr. Clark, via a Waiver of Service of Summons dated August 14, 2000.

5. On August 24, 2000, the Plaintiff also filed a Motion for a Temporary Restraining Order and/or an Expedited Preliminary Injunction and a Brief and Affidavit in Support of that Motion.

6. By Order dated September 20, 2000, Magistrate Judge Smyser directed Defendants to file a brief in opposition to Plaintiff's Motion for a Temporary Restraining Order and/or an Expedited Preliminary Injunction.

7. On at least twelve prior occasions, Plaintiff has had federal actions or appeals dismissed as legally frivolous. See, Exhibit "A," documents in support of Motion to Revoke *In Forma Pauperis* Status and to Defer Filing of Responsive Pleading filed this date under separate cover.

8. During 1998, in two separate cases, this Honorable Court revoked Plaintiff's *in forma pauperis* status pursuant to 28 U.S.C. §1915(g) and then dismissed all three civil actions after Plaintiff failed to pay the filing fee in full. See, Exhibit "B," Documents in Support of Motion to Revoke *In Forma Pauperis* Status and To Defer Filing of Responsive Pleading filed this date under separate cover.

9. In a Report and Recommendation dated July 19, 2000, Magistrate Judge Smyser granted Defendant's motion to revoke inmate Jae's *in forma pauperis* status in the matter of John Richard Jae v. Dr. Laskey, M.D., Medical Director, Civil No. 1:CV-99-1610. See Exhibit "C", Documents in Support of Motion to Revoke *In Forma Pauperis* Status and to Defer Filing of Responsive Pleading filed this date under separate cover.

10. Pursuant to 28 U.S.C. § 1915(g), Plaintiff is not entitled to proceed *in forma pauperis* in this action and should be required to pay the filing fee in full before proceeding any further.

11. Defendants should not be required to respond to Plaintiff's Complaint unless and until Plaintiff pays the filing fee in full.

WHEREFORE, Defendant, Dr. Robert Clark, respectfully requests this Honorable Court grant its Motion to Revoke *In Forma Pauperis* Status and To Defer Filing of Responsive Pleading and enter the accompanying Court Order.

Respectfully submitted,

LAVERY, FAHERTY, YOUNG &  
PATTERSON, P.C.

Date: 10/04/2000

By: 


James D. Young, Esquire  
Attorney I.D. #53904  
P.O. Box 1245  
Harrisburg, PA 17108-1245  
(717) 233-6633  
Attorney for Defendant,  
Dr. Robert Clark

CERTIFICATE OF SERVICE

I, Linda L. Gustin, an employee of the law firm of Lavery, Faherty, Young & Patterson, P.C., do hereby certify that on this 4th day of October, 2000, I served a true and correct copy of the foregoing MOTION TO REVOKE PLAINTIFF'S IN FORMA PAUPERIS STATUS via U.S. First Class mail, postage prepaid, addressed as follows:

John Richard Jae \*Legal Mail\*  
Inmate #BQ-3219  
SCI-Camp Hill  
P. O. Box 200  
Camp Hill, PA 17001-0200

Robert Wolff  
Assistant Chief Counsel  
PA Department of Corrections  
P. O. Box 598  
Camp Hill, PA 17001-0598



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Linda L. Gustin